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October 31, 2018

The Honorable Michael Passero
Mayor, City of New London
181 State Street
New London, CT 06320

RE: Proposed siting of a seasonal restaurant on city-owned piers in Downtown Waterfront Park, New London

Dear Mayor Passero:

We understand that the City of New London is exploring the possibility of siting a seasonal restaurant within a redesigned shipping container along with picnic table seating on one of its city-owned piers in what is known as the “Downtown Waterfront Park” consisting of City Pier, Discovery Pier, Custom House Pier and Coast Guard Pier. Please be advised that such a proposal would require authorization from this Department, and would also likely be inconsistent with applicable statutory standards.

The downtown piers and the esplanade connecting them create a tourist destination unparalleled in the region. The purpose of these over-water structures is to provide public access, berthing for visiting boats and Tall Ships, fishing opportunities, viewing opportunities and other water-based recreation for residents and tourists alike. Siting private non-water dependent uses such as restaurants which can be located on land, on these over-water structures conflicts with Connecticut Coastal Management Act water-dependent use policies and the state’s obligation to manage its public trust resources for the benefit of the public. For these reasons, the Department has discouraged previous proposals to locate floating or over-the-water restaurants in Connecticut waters.

Permit number 199901124-PF, issued on August 31, 1999, authorized construction of components of Downtown Waterfront Park specifically for the purpose of “public access and recreational boating,” both of which are water-dependent. Condition # 12 of the General Conditions of the permit states that any proposed change in use or ownership of these piers must be referred in writing to the Commissioner of the Department of Energy and Environmental Protection. The proposed restaurant would be a non-water-dependent change in use that would appear inconsistent with CGS Sections 22a-92(b)(1)(A) and 22a-92(b)(1)(C) which give highest priority and preference to water-dependent uses.

Additionally, please note that use of a shipping container to house the proposed restaurant would not exempt the proposal from Federal Emergency Management Agency (FEMA) floodplain construction standards. A shipping container building at this site would constitute a new structure in the coastal floodplain (VE zone), subject to three foot waves and intense wave action. Threats of hurricanes, coastal storms and flooding make areas over the water poorly suited for permanent and seasonal structures.

In conclusion, we wish to discourage any privatization of the Downtown Waterfront Park piers by any non-water dependent structures such as a restaurant. The waters and submerged tidelands of the state belong to the people of the state and New London is uniquely geographically situated with extensive water frontage. The encroachment of the piers into public trust waters is intended to expand public access to the waters of the state and allow for more water-based recreational opportunities. This water-dependent use was specifically approved in the permits authorizing the piers, and any proposed change is not allowed without permit modification, and most likely inconsistent with the Connecticut Coastal Management Act. If you have any questions concerning this matter, please contact Brian Golembiewski of my staff at brian.golembiewski@ct.gov or (860) 424-3867.

Sincerely,



Brian Thompson, Director
Land & Water Resources Division
Bureau of Water Protection and Land Reuse

Enc: Water Dependent Use Fact Sheet

cc: Kenneth Edwards, Chairman, New London Port Authority
Barry Levine, Chairman, Planning and Zoning Commission Chairperson
Sybil Tetteh, New London City Planner
Kirk Kripas, City Building Official
Diane Ray, Army Corps of Engineers
Karl Anderson, FEMA